

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:02-00231

JOHN DAVID MOONEY

ORDER

The Court **DIRECTS** the United States Marshal to take immediate custody of the defendant from the Bureau of Prisons. The United States Marshal is **ORDERED** to **IMMEDIATELY** release the defendant. The defendant is not under any conviction, his conviction and sentence having been set aside by the Fourth Circuit Court of Appeals. The defendant was returned to this district to face trial and was held as a pretrial detainee. Upon the Government's motion the Court dismissed the indictment. The Court has confirmed with FCI Gilmer and the United States Marshal that there are no detainers against the defendant. Therefore, there is no basis under law for the United States Marshal or the Bureau of Prisons to further detain this defendant. As this Order is entered, the defendant is in the physical custody of the United States Marshal in their holding cell at the courthouse in Huntington, WV. Since he is not under any conviction, neither the Bureau of Prisons nor the United States Marshal have any lawful authority to detain him.

The Court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: November 16, 2007

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', is written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE